IN THE HIGH COURT OF DELHI

Bail Application No.1468/2007

Smt.Sudesh & Anr. ..... Petitioners
! through: Mr.R.N.Sharma, Advocate.

VERSUS

$ State of NCT of Delhi ..... Respondent
^ through : Mr.Jaideep Malik, Advocate
for the State.
Mr.R.D.Sharma, Advocate
for the complainant.

% DATE OF DECISION: 21.09.2007

CORAM:

* **Hon'ble Mr.Justice Pradeep Nandrajog**

1. Whether reporters of local papers may be allowed to see the judgment? Y

2. To be referred to the Reporter or not? Y

3. Whether judgment should be reported in Digest? Y

: **PRADEEP NANDRAJOG, J.**

FIR No.561/07 dated 7.7.2007.
under Sections 498-A/304-B/34 IPC.
PS Nangloi.

1. Petitioners are the married sister-in-laws of Indu who was married to their brother Surender on 21.4.2007. It was the second marriage of Surender as also of Indu.

2. Indu died on 4.7.2007. FIR has been registered pursuant to information received at the police station at 6.15 hours on 7.7.2007. The informant is one Jyoti, the wife of the brother of Indu.

3. The FIR has been registered on the basis of the statement recorded by B.P.Mishra, Tehsildar of village Nangloi to whom powers of

Executive Magistrate were delegated inasmuch as the Executive Magistrate was on leave.

4. As per Jyoti, deceased was being troubled for dowry by her husband, both parents of the husband and the petitioners. That deceased used to tell her i.e. Jyoti that her husband was demanding Rs.10 lacs. That on 30.6.2007 parents-in-law of Indu came to their house and on not being given money left disappointed. That on 21.7.2007, she i.e. Jyoti accompanied with her husband went to the matrimonial house of Indu where her parents-in-law and both petitioners abused them stating that if Rs.10 lacs was not given it was better that they take back Indu to their house. She further stated that on 4.7.2007, from 11.00 am onwards, she was repeatedly trying to contact Indu on her mobile phone but receiving no reply telephoned her husband informing that Indu was not responding to the call. That she rang up father-in-law of Indu to enquire why Indu was not responding to the telephone ring. That Indu's father-in-law told her that he was not at home and on reaching home would put her through to Indu. That around 4.00 pm when she rang up Indu's father-in-law he told her that Indu was not opening the door. That she spoke to Indu's husband who likewise told her that Indu had bolted the door and was not opening it. That as conversation was on, father-in-law of Indu told her that Indu had committed suicide.

5. It appears that on 4.7.2007 itself, information was available with the police pertaining to the death of Indu evidenced by the fact that the Tehsildar, exercising powers of the Executive Magistrate recorded statements of Rattan Lal, father of Indu; Roshan Lal, maternal

uncle of Indu and Anand, brother of Indu. As recorded by the learned Tehsildar, the father, brother and the uncle of the deceased have exonerated the in-laws of Indu. The statements categorically record that Indu never informed them of being harassed on account of dowry.

6. Apprehending arrest in the afore-noted FIR, petitioners sought pre-arrest bail by filing Bail Application No.1468/2007.

7. On 20.7.2007 interim protection was granted to the petitioners.

8. On 25.7.2007 police recorded the supplementary statement of the father, brother and uncle of the deceased. All the three made statements to the police implicating the husband, father-in-law, mother-in-law as also sisters-in-law (petitioners) of the deceased.

9. It is urged by learned counsel for the petitioners that the initial statements of the father, brother and uncle of the deceased as recorded by the Tehsildar are correct and are voluntary statements. Counsel urges that the statements were made immediately after the unfortunate incident when Indu committed suicide at around 4.00 pm. Counsel urges that when petitioners were granted interim protection by this Court vide order dated 20.7.2007, within 5 days thereafter, to frustrate the order dated 20.7.2007, the police has recorded incorrect statements purportedly made by the father, brother and uncle of the deceased.

10. Counsel further urges that first petitioner is a teacher under the Municipal Corporation of Delhi and that on 4.7.2007 she was in the school assigned to her namely M.C.Primary School, Kavita

Colony-I, Nangloi. Learned counsel places reliance upon a certificate issued by the Principal of the school certifying that first petitioner was in school on 4.7.2007 from 7.20 am till 12.50 pm. Learned counsel urges that after the school hours were over, first petitioner, being married went to her matrimonial house.

11. As regards the second petitioner, learned counsel urges that she too being married, was in her matrimonial house at Peeragarhi. Counsel informed that the matrimonial house of petitioner No.2 is at a distance of approximately 3 kms from the house where the deceased died.

12. Counsel further urges that this being the second marriage of the deceased as also the brother of the petitioners, it was a simple affair. There was no demand of dowry. Lastly, counsel submitted that being married, petitioners would not be the beneficiary of any dowry which would be brought to her matrimonial house by the deceased.

13. Learned counsel for the State and learned counsel for the complainant responded by urging that the SDM of the area was a good friend of the father of the petitioners and for said reason he impressed upon the Tehsildar to incorrectly record the statements of the father, brother and uncle of the deceased. Learned counsel drew attention of the Court to a letter addressed by the father of the deceased to the Lt.Governor, Delhi on 25.7.2007 informing that the police was not correctly investigating the matter. Counsel informed that letters were even received by the Commissioner of Police and only thereafter local police was jolted into taking corrective action.

14. Learned counsel for the State further points out that the

postmortem of Indu was conducted on 5.7.2007 at 10.30 am. The cause of death opined was a combined effect of spinal shock and asphyxia as a result of pressure over throat structure produced by ligature and the time since death was stated to be 22 hours.

15. Counsel urged that if postmortem report was to be accepted as correct, the approximate time of death of Indu would be around 12.00 noon of 4.7.2007. Thus, counsel urges that it appears to be a case of homicidal death and not suicide. Learned counsel for the State points out that guilt of the in-laws of the deceased can be inferred from the fact that when Jyoti i.e. bhabhi of the deceased was attempting to contact the deceased and was inquiring from the father-in-law of the deceased as to why deceased was not responding to her phone, Jyoti was being fed lies by informing her that when father-in-law of the deceased would reach home he would try and ensure a communication between Jyoti and Indu. Counsel submits that informing the family members of Indu that she had died at 4.00 pm, evidences that the in-laws of Indu were hiding or at least attempting to hide the truth.

16. Indeed, if postmortem report is accepted as correct, Indu was no more in the world of living after around 12.00 noon on 4.7.2007. Further, the cause of the death opined in the postmortem report prima facie suggests that the death was homicidal and probably not suicidal.

17. Another relevant fact may be noted. In the supplementary statement of Anand, brother of the deceased and the statement of Navneet, the other brother of the deceased, it is apparent that both

stated that when they reached the house of the deceased the door was opened by a mere push. This belies the version of the father-in-law of the deceased as communicated to Jyoti over the telephone that Indu had bolted the door from inside and was not responding to them.

18. I may note that the photographs of the scene of the crime where deceased was apparently found hanging show that both legs of the deceased are resting on the floor. I am informed that the height of the ceiling from the floor level was 7' and 3” only.

19. I eschew from probablizing the real nature of offence for the reason investigation is still on.

20. But, the postmortem report of Indu suggests that Indu was no longer in the world of living at around 12.00 noon.

21. This becomes very material as far as the petitioners are concerned.

22. As noted herein above, first petitioner, being employed in a municipal school was at the school at around 1.00 pm. She was obviously not in the house where Indu died.

23. As regards petitioner No.2, there is no evidence that she was in her matrimonial house. But, at the same time there is no evidence that she was in the house of her parents i.e. the matrimonial house of Indu.

24. Second petitioner is married and resides in her matrimonial house in a colony which is about 3 kms away from the house of the deceased.

25. Being married sisters, petitioners would in all probability not be the beneficiaries of any dowry.

26. In my opinion case is made out to grant protection to the petitioners who seek pre-arrest bail but limited till a week after the challan is filed.

27. My reason for granting pre-arrest bail to the petitioners is the peculiar features which have emerged and in particular the cause of the death opined in the postmortem report and the time of death of Indu coupled with the fact that there is evidence to show that first petitioner was in the school where she was employed till 1.00 pm and qua petitioner No.2 there is no evidence that she was in the house of her parents.

28. My reason for limiting the duration of pre-arrest bail is that investigation is still being conducted and complete and full evidence has not been gathered. Needless to state, full contours of the case of the prosecution would be unfolded in the charge-sheet which would ultimately be filed.

29. The petition accordingly stands disposed of directing that on the petitioners cooperating with the investigating officer and responding to the summons issued by the investigating officer, in the event of being arrested by the investigating officer, petitioners would be released on bail by the investigating officer on petitioners furnishing a persona bond in sum of Rs.20,000/- each with one surety each in the like amount to the satisfaction of the investigating officer in the afore-noted FIR.

30. Duration of the bail would be co-terminus 7 days after charge-sheet would be presented in the Court.

31. Copy of the order be supplied dasti to learned counsel for the petitioners.

September 21, 2007 **PRADEEP NANDRAJOG, J.**
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